

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

OMAR SEGURA,

Plaintiff,

v.

COELHO,

Defendant.

Case No. 1:23-cv-00780-JLT-BAM (PC)

ORDER ADOPTING FINDINGS AND RECOMMENDATIONS, DISMISSING THE ACTION WITHOUT PREJUDICE FOR FAILURE TO PROSECUTE AND FAILURE TO OBEY COURT ORDER, TERMINATING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT AS MOOT, AND DIRECTING THE CLERK OF COURT TO CLOSE THE CASE

(Doc. 46)

Omar Segura seeks to hold Officer Coelho liable for violating Plaintiff's eighth amendment rights while incarcerated at North Kern State Prison. (Docs. 7, 10, 38.) Defendant filed a motion for summary judgment and notified Plaintiff of the requirements to oppose a motion for summary judgment. (Doc. 44; Doc. 44-1.) After Plaintiff did not file an opposition or notice of opposition—as required by Local Rule 230(l)—the magistrate judge ordered Plaintiff to show cause why the action should not be dismissed. (Doc. 46.)

After Plaintiff did not respond to the order or otherwise communicate with the Court, the magistrate judge found Plaintiff failed to prosecute the action and failed to obey the Court's order. (Doc. 46.) The magistrate judge found terminating sanctions are appropriate upon consideration of the factors identified by the Ninth Circuit in *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986). (*Id.* at 2-4.) Therefore, the magistrate judge recommended the Court

1 dismiss the action without prejudice. (*Id.* at 4.)

2 The Court served the Findings and Recommendations on the parties and notified Plaintiff  
3 that any objections were due within 14 days. (Doc. 46 at 4.) The Court advised Plaintiff that the  
4 “failure to file objections within the specified time may result in the waiver of the ‘right to  
5 challenge the magistrate’s factual findings’ on appeal.” (*Id.*, quoting *Wilkerson v. Wheeler*, 772  
6 F.3d 834, 838-39 (9th Cir. 2014).) Neither Plaintiff nor Defendant filed objections, and the time  
7 to do so has passed.

8 According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of this case.  
9 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations  
10 are supported by the record and proper analysis. Thus, the Court **ORDERS**:

- 11 1. The Findings and Recommendations issued on July 15, 2025 (Doc. 46), are  
12 **ADOPTED** in full.
- 13 2. This action is **DISMISSED** without prejudice, for failure to prosecute and failure  
14 to obey a court order.
- 15 3. Defendant’s motion for summary judgment (Doc. 44) is terminated as MOOT.
- 16 4. The Clerk of Court is directed to close this case.

17 IT IS SO ORDERED.

18 Dated: August 5, 2025

  
UNITED STATES DISTRICT JUDGE

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